

Book VII.
Title XXV.

Concerning the naked Quiritarian right.
(De nudo ex jure quiritium tollendo.)

7.25.1. Emperor Justinian to Julianus, Praetorian Prefect.

Doing away, by this order, with the plaything of ancient subtlety, no differences in owners shall hereafter be recognized; i.e. between owners under the law of the Romans (ex jure Quiritium) and bonitary owners and we want no such distinction to exist. The term "ex jure Quiritium" does not differ from a riddle; it is not seen, nor does it appear in things, but it is an empty and superfluous term, by which the youths who come to their first lecture on law, and who at the beginning listen to useless provisions of ancient laws, are frightened. Each owner (though only one heretofore named a bonitary owner) shall be a complete legal owner of (e.g.) a slave or of other property belonging to him. 530-531.

Note.

The only kind of perfect ownership known to the ancient (civil) law (see Radin 336) of the Romans was quiritarian ownership - dominium ex jure Quiritium, which existed solely in favor of citizens who acquired property subject to ownership by a proper method of conveyance. Such ownership might be acquired by a judgment by confession in a fictitious suit for the recovery of property, and by a formal sale - mancipatio - carried out in the presence of not less than five witnesses, and a scale and a piece of bronze.

This kind of ownership was, in time, entirely supplanted by what is called "bonitary," or equitable ownership, which might be acquired by citizens and foreigners alike. The main essential in this was an agreement of sale and delivery of the property. A person acquiring property only by delivery did not have full quiritarian ownership, and, therefore, if the property go out of his possession and back into the hands of the former owner, he could not sue for it. Prescription, however, for the requisite time - mentioned in headnote to the next title - gave him a complete title. In the meantime, he was assisted by the praetor - the judge. If the property was in his possession, and the late owner sued for it, relief to the latter was refused, and the transferee, further, had an action for the recovery of the property, even before the prescriptive title was complete, against third persons. Thus title by delivery came gradually to be recognized as the only title necessary, and the within law by Justinian was a reform in name, rather than substance. Gaius 1.119; 2.24; Leage 165; Sohm § 62. See also note to C. 7.31.1. (Here probably acta publicium - which was abolished - see 43 Z.S.S. 200.)